

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH TOWNSEND,

Plaintiff,

v.

T. COOK, et al.,

Defendant.

No. 1:24-cv-01285-KES-GSA (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR RECONSIDERATION

(Doc. No. 16)

Plaintiff Joseph Townsend is a former state prisoner proceeding pro se and in forma pauperis in this now closed civil rights action filed pursuant to 42 U.S.C. § 1983. On February 13, 2025, plaintiff filed a motion for reconsideration, (Doc. 16), which the Court construes to be seeking reconsideration of its order filed on February 7, 2025 adopting the magistrate judge's findings and recommendations and dismissing this action for failure to exhaust administrative remedies. (Doc. 13.)

Plaintiff raises two grounds for reconsideration in his motion: First, that he timely filed his "motion of opposition" within the fourteen-day deadline from the date he received the Court's order; and second, that the Court must accommodate his legal blindness and difficulty reading and writing pursuant to the Americans with Disabilities Act by granting him more time to comply

1 with a court order.¹ (Doc. 16.) Although plaintiff does not indicate the rule of procedure under
2 which he seeks relief, the Court will liberally construe the motion and treat it as a Rule 60(b)
3 motion for relief from judgment or order and as a Rule 59(e) motion to alter or amend the
4 judgment.

5 Federal Rule of Civil Procedure 60(b) governs the reconsideration of final orders of the
6 district court. Rule 60(b) permits a district court to relieve a party from a final order or judgment
7 on grounds of: “(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered
8 evidence . . . ; (3) fraud . . . of an adverse party; (4) the judgment is void; (5) the judgment has
9 been satisfied . . . or (6) any other reason justifying relief from the operation of the judgment.”
10 Fed. R. Civ. P. 60(b).

11 “A motion for reconsideration should not be granted, absent highly unusual
12 circumstances, unless the district court is presented with newly discovered evidence, committed
13 clear error, or if there is an intervening change in the controlling law,” and it “may not be used to
14 raise arguments or present evidence for the first time when they could reasonably have been
15 raised earlier in the litigation.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571
16 F.3d 873, 880 (9th Cir. 2009) (internal quotations marks and citation omitted). Reconsideration
17 of a prior order is an extraordinary remedy “to be used sparingly in the interests of finality and
18 conservation of judicial resources.” *Kona Enters., Inc. v. Estate of Bishop*, 229 F. 3d 877, 890
19 (9th Cir. 2000) (citation omitted); *see also Harvest v. Castro*, 531 F.3d 737, 749 (9th Cir. 2008)
20 (addressing reconsideration under Rule 60(b)). In seeking reconsideration, the moving party
21 “must demonstrate both injury and circumstances beyond his control.” *Harvest*, 531 F.3d at 749
22 (internal quotation marks & citation omitted).

23 Further, Local Rule 230(j) requires, in relevant part, that a movant show “what new or
24 different facts or circumstances are claimed to exist which did not exist or were not shown”
25 previously, “what other grounds exist for the motion,” and “why the facts or circumstances were
26 not shown” at the time the substance of the order which is objected to was considered.

27 ¹ Plaintiff does not specify which order or orders he is referring to here, but in any event, his
28 failure to do so has no effect on the conclusion below.

1 Plaintiff's motion does not identify any basis under Rule 60 upon which this Court should
2 reconsider its order dismissing this action. The Court considered and addressed plaintiff's
3 objections when issuing its prior order and plaintiff presents neither newly discovered evidence
4 nor an intervening change in the controlling law that would warrant reconsideration. Neither of
5 the grounds raised in plaintiff's motion for reconsideration addresses the reason why this action
6 was dismissed—namely, plaintiff's failure to exhaust administrative remedies as required by 42
7 U.S.C. § 1997e(a). (Docs. 10, 13.) The timeliness of plaintiff's filings was not at issue in, and
8 had no bearing on, the Court's order adopting the findings and recommendations. Similarly,
9 plaintiff's request for additional time does not identify any newly discovered evidence regarding
10 the administrative exhaustion issue or show that additional time would enable him to identify any
11 such evidence. Plaintiff has not set forth facts or law providing a basis upon which the Court
12 should reverse its prior decision.

13 The Court has discretion to amend or alter the judgment under Federal Rule of Civil
14 Procedure 59(e), but such remedy is “extraordinary” and “should be used sparingly.” *Allstate Ins.*
15 *Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011) (internal quotation marks and citation
16 omitted). “In general, there are four basic grounds upon which a Rule 59(e) motion may be
17 granted: (1) if such motion is necessary to correct manifest errors of law or fact upon which the
18 judgment rests; (2) if such motion is necessary to present newly discovered or previously
19 unavailable evidence; (3) if such motion is necessary to prevent manifest injustice; or (4) if the
20 amendment is justified by an intervening change in controlling law.” *Id.* Plaintiff has not
21 established any basis for extraordinary relief under Rule 59(e), and the Court does not find that he
22 is entitled to such relief.

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1 Accordingly:

- 2 1. Plaintiff's motion for reconsideration (Doc. 16) is denied; and
3 2. This case shall remain closed.

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6 IT IS SO ORDERED.

7 Dated: February 19, 2025


UNITED STATES DISTRICT JUDGE